

**A CERTIFIED TRUE COPY**

OCT 21 2005

ATTEST  
FOR THE JUDICIAL PANEL ON  
MULTIDISTRICT LITIGATION**U.S. DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

FILED

OCT 27 2005

LORETTA G. WHITE  
CLERK

EXHIBIT

ALL STATE LEGAL®

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JUDICIAL PANEL ON  
MULTIDISTRICT LITIGATION

OCT 21 2005

FILED  
CLERK'S OFFICE**BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION****IN RE VIOXX PRODUCTS LIABILITY LITIGATION**

**BEFORE WM. TERRELL HODGES, CHAIRMAN, JOHN F. KEENAN, D. LOWELL JENSEN, J. FREDERICK MOTZ,\* ROBERT L. MILLER, JR., KATHRYN H. VRATIL AND DAVID R. HANSEN, JUDGES OF THE PANEL**

**TRANSFER ORDER**

Presently before the Panel are motions, pursuant to Rule 7.4, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001), by the health care defendant in the Southern Texas action and plaintiffs in the remaining 47 actions listed on Schedule A to vacate the Panel's orders conditionally transferring the actions to the Eastern District of Louisiana for inclusion in the Section 1407 proceedings occurring there in this docket. Merck & Co., Inc., favors inclusion of these actions in MDL-1657 proceedings.

On the basis of the papers filed and hearing session held, the Panel finds that these actions involve common questions of fact with actions in this litigation previously transferred to the Eastern District of Louisiana. Transfer of the actions to that district for inclusion in the coordinated or consolidated pretrial proceedings occurring there will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. Any pending motions to remand to state court can be presented to and decided by the transferee judge. *See, e.g., In re Ivy*, 901 F.2d 7 (2d Cir. 1990); *In re Prudential Insurance Company of America Sales Practices Litigation*, 170 F.Supp.2d 1346, 1347-48 (J.P.M.L. 2001). The Panel further finds that transfer of these actions is appropriate for the reasons expressed in the original order directing centralization in this docket. In that order, the Panel held that the Eastern District of Louisiana was a proper Section 1407 forum for actions involving claims of liability for allegedly adverse effects arising from the ingestion of Vioxx. *See In re Vioxx Products Liability Litigation*, 360 F.Supp.2d 1352 (J.P.M.L. 2005).

To the North Carolina plaintiff who argues that he does not have the resources to litigate his claims in the Eastern District of Louisiana and to the health care defendant in the Southern Texas action who argues that it is not proper to split the Texas action into multiple pretrial proceedings, we emphasize that since Section 1407 transfer is for pretrial proceedings, there is usually no need for the parties and witnesses to travel to the transferee districts for depositions or otherwise. *See, e.g., Fed.R.Civ.P. 45(c)(3)(A)*. Furthermore, the judicious use of liaison counsel, lead counsel and steering

\* Judge Motz took no part in the decision of this matter.

Fee \_\_\_\_\_  
 Process \_\_\_\_\_  
 DktD \_\_\_\_\_  
 CtRmDep \_\_\_\_\_  
 Doc. No. \_\_\_\_\_

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100 - 2 -

committees will eliminate the need for most counsel ever to travel to the transferee districts. And it is logical to assume that prudent counsel will combine their forces and apportion their workload in order to streamline the efforts of the parties and witnesses, their counsel and the judiciary. This streamlined process combined with uniform case management approaches instituted or anticipated in these multi-district proceedings will foreseeably lead to an overall savings in transaction costs. *See In re Asbestos Products Liability Litigation (No. VI)*, 771 F.Supp. 415, 422 (J.P.M.L. 1991).

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, these actions are transferred to the Eastern District of Louisiana and, with the consent of that court, assigned to the Honorable Eldon E. Fallon for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket.

IT FURTHER ORDERED that the claims against Pfizer Inc. (Pfizer) and the physician defendant in *Santos Villarreal Layton v. Dario Arango, M.D., et al.*, S.D. Texas, C.A. No. 7:05-149, relating to Pfizer's Celebrex prescription medication are separated and remanded, pursuant to 28 U.S.C. § 1407(a), to the Southern District of Texas.

FOR THE PANEL:

Wm. Terrell Hodges  
Wm. Terrell Hodges  
Chairman

## SCHEDULE A

MDL-1657 -- In re Vioxx Products Liability Litigation

	EDLA SEC. L/3
<u>Southern District of California</u>	
<i>Alvin Williams v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-943	05-5272
<i>Margaret Stein v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-944	05-5273
<i>Otis Anderson v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-945	05-5274
<i>Joan Ongley v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-947	05-5275
<i>Hilda Armenta v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-948	05-5276
<i>Robert Levesque v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-949	05-5277
<i>Clancy Lucille Holloway v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-950	05-5278
<i>Laura Martinez v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-951	05-5279
<i>Clarice Forbes v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-953	05-5280
<i>Robert Castro v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-954	05-5281
<i>Joseph Capozzi v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-957	05-5282
<i>Anna Lemmons v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-958	05-5283
<i>Richard Brown v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-959	05-5284
<i>Aida Hernandez v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-960	05-5285
<i>Harvey Persh v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-961	05-5286
<i>Robert Scott v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-962	05-5287
<i>Violet Abramson v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-963	05-5288
<i>Carmen Esquer v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-964	05-5289
<u>Southern District of Illinois</u>	
<i>Rosie-May Spann v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-315	05-5290
<i>James Steele, Jr., et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-339	05-5291
<i>Greg Miller, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-361	05-5292
<i>Wilma Gaston, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-362	05-5293
<i>John Allen, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-377	05-5294
<u>Western District of Kentucky</u>	
<i>William Andrew Curl, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-324	05-5295
<i>Brenda Cox, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-332	05-5296
<i>Patrick Wayne Overall, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-331	05-5297
<i>James Goodman v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-334	05-5298
<i>Steven Clark v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-335	05-5299
<u>Eastern District of Missouri</u>	
<i>Dorothy Ganser, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 4:05-557	05-5300
<i>Letty Bess, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 4:05-568	05-5301
<i>Arthur Mullins, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 4:05-569	05-5302
<i>Dorothy Kassing, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 4:05-631	05-5303
<i>Shirley Zook, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 4:05-632	05-5304
<i>Andrew Kisty, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 4:05-665	05-5305

- A2 -

Eastern District of Missouri (Continued)

EDLA  
SEC. L/3

<i>Virginia Kell, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 4:05-666	05-5306
<i>Mary Benson, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 4:05-668	05-5307
<i>Earlie Douglas, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 4:05-669	05-5308
<i>Ricardo Lara, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 4:05-671	05-5309
<i>Loretta Trinidad, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 4:05-673	05-5310
<i>David Moultrie, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 4:05-674	05-5311
<i>Irene Rogers, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 4:05-675	05-5312
<i>Charlotte Bohlke, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 4:05-837	05-5313

Middle District of North Carolina

*Jimmy Reid v. Merck & Co., Inc.*, C.A. No. 1:05-348 05-5314

Eastern District of Texas

<i>Elfriede Blacketer v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 1:05-336	05-5315
<i>Walter Maddox v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 1:05-338	05-5316

Southern District of Texas

*Santos Villarreal Layton v. Dario Arango, M.D., et al.*, C.A. No. 7:05-149 05-5317

Western District of Washington

*Robert K. Waitt v. Merck & Co., Inc., et al.*, C.A. No. 2:05-759 05-5318

Northern District of West Virginia

*Shelia Dalgo v. Merck & Co., Inc.*, C.A. No. 5:05-48 05-5319

**INVOLVED COUNSEL LIST  
DOCKET NO. 1657  
IN RE VIOXX PRODUCTS LIABILITY LITIGATION**

Kevin J. Adrian  
Brown & James  
1010 Market Street, 20th Floor  
St Louis, MO 63101

T. Scott Allen  
Cruse Scott Henderson & Allen, LLP  
2777 Allen Parkway, 7th Floor  
Houston, TX 77019-2133

Charles Avirth  
Hughes, Hubbard & Reed, LLP  
350 South Grand Avenue, 36th Floor  
Los Angeles, CA 90071

Crystal Bowie Baker  
Nelson Mullins Riley & Scarborough  
The Knollwood, Suite 530  
380 Knollwood Street  
Winston-Salem, NC 27103

Dan H. Ball  
Bryan Cave, L.L.P.  
One Metropolitan Square  
211 N. Broadway, Suite 3600  
St. Louis, MO 63102-2750

Christopher J. Blake  
Nelson, Mullins, Riley  
& Scarborough, LLP  
P.O. Box 30519  
Raleigh, NC 27622-0519

J. Trenton Bond  
Reaud, Morgan & Quinn, LLP  
801 Laurel Street  
P.O. Box 26005  
Beaumont, TX 77720-6005

Donald K. Brown, Jr.  
O'Bryan, Brown & Toner  
1500 Starks Building  
455 South Fourth Street  
Louisville, KY 40202-2513

Michael K. Brown  
Reed Smith, LLP  
355 South Grand Avenue, Suite 2900  
Los Angeles, CA 90071-1514

James M. Burd  
Whonsetler & Johnson, PLLC  
6011 Brownsboro Park Blvd., Suite E  
Louisville, KY 40207

Evan D. Buxner  
Walther Glenn Law Associates  
1034 South Brentwood Blvd.  
Suite 1300  
St. Louis, MO 63117

Joseph S. Cohen  
Beirne, Maynard & Parsons  
1300 Post Oak Blvd., Suite 2500  
Houston, TX 77056-3000

John P. Cunningham  
Brown & James  
Richland Plaza 1  
525 Main Street  
Belleville, IL 62220

Charles A. Deacon  
Fulbright & Jaworski, L.L.P.  
300 Convent Suite 2200  
San Antonio, TX 78205

David A. Dick  
Thompson Coburn, LLP  
One US Bank Plaza, Suite 2600  
St Louis, MO 63101

Kenneth J. Ferguson  
Clark, Thomas & Winters  
P.O. Box 1148  
Austin, TX 78767-1148

Francis J. Flynn  
Jeffrey J. Lowe, P.C.  
8235 Forsyth Boulevard, Suite 1100  
St. Louis, MO 63105

Alberto Tover Garcia, III  
Law Office of Alberto T. Garcia, III  
10125 North 10th Street, Suite E  
McAllen, TX 78504

Andrew C. Gauen  
Merrick, Hofstedt & Lindsey  
710 9th Avenue  
Seattle, WA 98104

Lawrence B. Grebel  
Brown & James, P.C.  
1010 Market Street  
20th Floor  
St. Louis, MO 63101

Dan H. Hall  
Bryan Cave, L.L.P.  
One Metropolitan Square  
211 N. Broadway, Suite 3600  
St. Louis, MO 63102-2750

Russ M. Herman  
Herman, Herman, Katz & Cotlar,  
L.L.P.  
820 O'Keefe Avenue  
New Orleans, LA 70113

Douglas A. Hofmann  
Williams, Kastner & Gibbs  
P.O. Box 21926  
601 Union Street, Suite 4100  
Seattle, WA 98101

Jeffrey A. Holmstrand  
McDermott & Bonenberger, PLLC  
53 Washington Avenue  
Wheeling, WV 26003-0316

William Zachary Hughes  
Baker Botts LLP  
910 Louisiana  
Suite 3000 One Shell Plaza  
Houston, TX 77002-4995

Richard L. Josephson  
Baker Botts LLP  
One Shell Plaza  
910 Louisiana Street, Suite 3000  
Houston, TX 77002-9934

Norman C. Kleinberg  
Hughes Hubbard & Reed, LLP  
One Battery Park Plaza, 12th Floor  
New York, NY 10004-1482

McCall B. Kuhne  
Dougherty, Hildre & Haklar  
2550 Fifth Avenue, Suite 600  
San Diego, CA 92103-6624

Jeffrey J. Lowe  
Jeffrey J. Lowe, PC  
8235 Forsyth Boulevard, Suite 1100  
St. Louis, MO 63105

Gerry Lowry  
Fulbright & Jaworski, L.L.P.  
1301 McKinney Street, Suite 5100  
Houston, TX 77010-3095

INVOLVED COUNSEL LIST- MDL-1657

PAGE 2 of 2

Richard L. Martens  
Martens Ragen  
705 Fifth Avenue South, Suite 150  
Seattle, WA 98104-4425

T. Evan Schaeffer  
Schaeffer & Lamere, PC  
5512 Godfrey Road, Suite B  
Godfrey, IL 62035

Timothy F. McCurdy  
Husch & Eppenberger, LLC  
190 Carondelet Plaza, Suite 600  
St. Louis, MO 63105

Randy J. Soriano  
Bryan Cave, L.L.P.  
One Metropolitan Square  
211 N. Broadway, Suite 3600  
St. Louis, MO 63102-2750

Winston E. Miller  
Frost, Brown & Todd, L.L.C.  
400 West Market Street, 32nd Floor  
Louisville, KY 40202

Stephen G. Strauss  
Bryan Cave, L.L.P.  
One Metropolitan Square  
211 N. Broadway, Suite 3600  
St. Louis, MO 63102-2750

Ann B. Oldfather  
Oldfather & Morris  
1330 South Third Street  
Louisville, KY 40208

Bryant M. Struble  
Thompson & Coburn, LLP  
One US Bank Plaza, Suite 2600  
St. Louis, MO 63101

Rene O. Oliveira  
Roerig, Oliveira & Fisher  
855 West Price Road, Suite 9  
Brownsville, TX 78520

David Tao, M.D.  
8006 Old Shepherdsville Rd.  
Louisville, KY 40202

Gary P. Paul  
Brinker & Doyen  
120 S. Central Ave., Suite 700  
Clayton, MO 63105

Tyler S. Thompson  
Dolt, Thompson, Shepherd & Kinney  
455 S. 4th Street  
310 Starks Building  
Louisville, KY 40202

Susan J. Pope  
Frost, Brown & Todd, L.L.C.  
250 W. Main Street  
2700 Lexington Financial Center  
Lexington, KY 40507-1749

Gerald Richard Toner  
O'Bryan, Brown & Toner  
455 S. Fourth Avenue  
1500 Starks Building  
Louisville, KY 40202

D. Brian Rattliff  
Bubalo & Hiestand, PLC  
401 S. Fourth Street, Suite 800  
Louisville, KY 40202

Carrie Von Hoff  
O'Hagan, Smith & Amundsen, LLC  
150 North Michigan Avenue, Suite 3300  
Chicago, IL 60601

Jimmy Reid  
1421 Miltonwood Road  
Brown Summit, NC 27214

James E. Whaley  
Brown & James  
1010 Market Street  
20th Floor  
St Louis, MO 63101

D. Aaron Rihn  
Peirce, Raimond & Coulter, P.C.  
2500 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219-1918

Phillip A. Wittmann  
Stone, Pigman, Walther & Wittmann, LLC  
546 Carondelet Street  
New Orleans, LA 70130-3588

Jaime A. Saenz  
Rodriguez, Colvin & Chaney  
1201 E. Van Buren  
Brownsville, TX 78520

**INVOLVED JUDGES LIST  
DOCKET NO. 1657  
IN RE VIOXX PRODUCTS LIABILITY LITIGATION**

Hon. Henry E. Autrey  
U.S. District Judge  
10N Thomas F. Eagleton U.S. Courthouse  
111 South Tenth Street  
St. Louis, MO 63102

Hon. Jennifer B. Coffman  
U.S. District Judge  
U.S. District Court  
P.O. Box 2228  
Lexington, KY 40588

Hon. Randy Crane  
U.S. District Judge  
U.S. District Court  
1701 W. Business Highway 83  
Suite 928  
McAllen, TX 78501

Hon. Marcia A. Crone  
U.S. District Judge  
U.S. District Court  
P.O. Box 1470  
Beaumont, TX 77706

Hon. Audrey G. Fleissig  
U.S Magistrate Judge  
Thomas F. Eagleton U.S. Courthouse  
Suite 3300  
111 South 10th Street  
St. Louis, MO 63102-9958

Hon. Jean C. Hamilton  
U.S. District Judge  
16N Thomas F. Eagleton U.S. Courthouse  
111 South Tenth St., 16th Floor  
St. Louis, MO 63102-1116

Hon. Carol E. Jackson  
Chief Judge, U.S. District Court  
14N Thomas F. Eagleton U.S. Courthouse  
111 South Tenth St., 14th Floor  
St. Louis, MO 63102-1116

Hon. Robert S. Lasnik  
Chief Judge, U.S. District Court  
15128 U.S. Courthouse  
700 Stewart Street  
Seattle, WA 98101-1271

Hon. Catherine D. Perry  
U.S. District Judge  
Thomas F. Eagleton U.S. Courthouse  
111 South Tenth Street, 14th Floor  
St. Louis, MO 63102-9958

Hon. Michael J. Reagan  
U.S. District Judge  
200 Melvin Price Fed. Bldg.  
& U.S. Courthouse  
750 Missouri Avenue  
E. St. Louis, IL 62201

Hon. Dana M. Sabraw  
U.S. District Judge  
U.S. District Court  
4290 Edward J. Schwartz U.S. Courthouse  
940 Front Street  
San Diego, CA 92101

Hon. Charles R. Simpson, III  
Chief Judge, U.S. District Court  
247 Gene Snyder U.S. Courthouse  
601 West Broadway  
Louisville, KY 40202

Hon. Rodney W. Sippel  
U.S. District Judge  
Thomas F. Eagleton U.S. Courthouse  
111 South Tenth Street, 10th Floor  
St. Louis, MO 63102-1116

Hon. Frederick P. Stamp, Jr.  
U.S. District Judge  
P.O. Box 791  
Federal Building  
1125 Chapline Street  
Wheeling, WV 26003-0100

Hon. William D. Stiehl  
Senior U.S. District Judge  
P.O. Box 249  
E. St. Louis, IL 62202

Hon. N. Carlton Tilley, Jr.  
Chief Judge, U.S. District Court  
U.S. District Court  
P.O. Box 3443  
Greensboro, NC 27402

Hon. E. Richard Webber  
U.S. District Judge  
Thomas F. Eagleton U.S. Courthouse  
111 South Tenth St., 12th Floor  
St. Louis, MO 63102-1116

**INVOLVED CLERKS LIST  
DOCKET NO. 1657  
IN RE VIOXX PRODUCTS LIABILITY LITIGATION**

Bruce Rifkin, Clerk  
U.S. Courthouse  
700 Stewart Street  
Seattle, WA 98101

David J. Maland, Clerk  
Jack Brooks Federal Bldg. & U.S. Courthouse  
300 Willow Street, Suite 104  
Beaumont, TX 77701

James Woodward, Clerk  
3300 Thomas F. Eagleton U.S. Courthouse  
111 South Tenth Street  
St. Louis, MO 63102

Jeffrey A. Apperson, Clerk  
106 Gene Snyder U.S. Courthouse  
601 West Broadway  
Louisville, KY 40202

John Brubaker, Clerk  
P.O. Box 2708  
Greensboro, NC 27402-2708

Michael N. Milby, Clerk  
P.O. Box 5059  
McAllen, TX 78502-5059

Norbert G. Jaworski, Clerk  
U.S. District Court  
P.O. Box 249  
E. St. Louis, IL 62202-0249

W. Samuel Hamrick, Jr., Clerk  
4290 Edward J. Schwartz Federal Building  
880 Front Street  
San Diego, CA 92101-8900

Wally A. Edgell, Clerk  
P.O. Box 471  
Wheeling, WV 26003-0060

UNITED STATES OF AMERICA  
JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

**CHAIRMAN:**  
Judge Wm. Terrell Hodges  
United States District Court  
Middle District of Florida

**MEMBERS:**  
Judge John F. Keenan  
United States District Court  
Southern District of New York

Judge Robert L. Miller, Jr.  
United States District Court  
Northern District of Indiana

**DIRECT REPLY TO:**

Michael J. Beck  
Clerk of the Panel  
One Columbus Circle, NE  
Thurgood Marshall Federal  
Judiciary Building  
Room G-255, North Lobby  
Washington, D.C. 20002

Judge D. Lowell Jensen  
United States District Court  
Northern District of California

Judge Kathryn H. Vratil  
United States District Court  
District of Kansas

Telephone: [202] 502-2800  
Fax: [202] 502-2888

Judge J. Frederick Motz  
United States District Court  
District of Maryland

Judge David R. Hansen  
United States Court of Appeals  
Eighth Circuit

<http://www.jpml.uscourts.gov>

October 21, 2005

Loretta G. Whyte, Clerk  
U.S. District Court  
102 Versailles Street  
Suite 501  
Lafayette, LA 70501

Re: MDL-1657 -- In re Vioxx Products Liability Litigation

(See Attached Schedule A of Order)

Dear Ms. Whyte:

I am enclosing a certified copy and one additional copy of a transfer order filed today by the Panel in the above-captioned matter. The order is directed to you for filing.

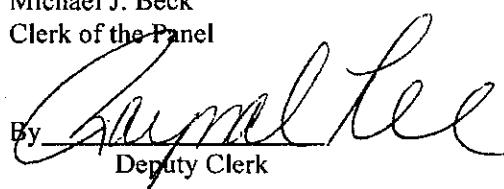
The Panel's governing statute, 28 U.S.C. §1407, requires that the transferee clerk "...transmit a certified copy of the Panel's order to transfer to the clerk of the district court from which the action is being transferred."

**The Panel has ordered that its Rule 1.6(a), pertaining to transfer of files, be suspended for purposes of this litigation. Accordingly, the transferee district clerk shall request, and the transferor district clerk shall forward, only those files deemed necessary by the transferee district court.**

A list of involved counsel is attached.

Very truly,

Michael J. Beck  
Clerk of the Panel

By   
Deputy Clerk

Enclosures/Attachment

cc: Transferee Judge: Judge Eldon E. Fallon  
Transferor Judges: (See Attached List of Judges)  
Transferor Clerks: (See Attached List of Clerks)